STATUTORY RULES OF NORTHERN IRELAND

1999 No. 220

SOCIAL SECURITY

The Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1999

Made - - - -	*7th May 1999*
Coming into operation	*1st June 1999*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 59(1) and (2) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1999, shall come into operation on 1st June 1999 and apply to a review conducted under section 23, 28 or 33 of the Social Security Administration (Northern Ireland) Act 1992(**2**) on or after that date.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Amendment of the Social Security (Adjudication) Regulations

2. After regulation 59 of the Social Security (Adjudication) Regulations (Northern Ireland) 1995(**4**) (review of decisions involving payment or increase of benefit other than industrial injuries benefit (except reduced earnings allowance), income support, jobseeker's allowance, family credit or disability working allowance) there shall be inserted the following regulation—

(**1**) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I.1999/671)

(**2**) Section 23 was amended by paragraph 26 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and section 28 was amended by Article 16(1) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))

(**3**) 1954 c. 33 (N.I.)

(**4**) S.R. 1995 No. 293, to which there are amendments not relevant to these regulations

"**Review of decisions involving incapacity for work or cessation or reduction of certain benefits**

59A.—(1) This regulation applies where on a review an original decision—

(a) that a person is, or is treated as, incapable of work is revised so that that person is not incapable of work by virtue of the all work test or is not treated as incapable of work in accordance with the Incapacity for Work Regulations; or

(b) relating to an attendance allowance or a disability living allowance is revised so as to make that benefit cease to be payable or to reduce the rate of that benefit and the decision on review is based on a person not satisfying any of the conditions in section 64 or, as the case may be, 72(1) or 73(1) to (3) of the Contributions and Benefits Act.

(2) A decision on review to which this regulation applies shall take effect from the date of that decision, except that—

(a) where the review is on the ground of ignorance of, or mistake as to, some material fact and the adjudicating authority is satisfied that the claimant or payee knew, or could reasonably have been expected to know, of the fact in question and that it was relevant to the original decision, the decision on review shall take effect from the date on which the claimant or, as the case may be, the payee, had, or could reasonably have been expected to have, such knowledge or from the date of the original decision, whichever is the later; or

(b) where the review is on the ground of a relevant change of circumstances and the adjudicating authority is satisfied that the claimant or payee failed to notify a change of circumstances which regulation 32 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**5**) required him to notify, and the claimant or, as the case may be, the payee knew, or could reasonably have been expected to know, that the change of circumstances should have been notified, the decision on review shall take effect—

(i) from the date on which the claimant or payee ought to have notified the change of circumstances, or

(ii) if more than one change has taken place between the date from which the original decision took effect and the date of the review, from the date on which the first change ought to have been notified.

(3) Where a person's entitlement to, or receipt of, a benefit ("the first benefit") is a condition of his being entitled to or receiving another benefit, allowance or advantage ("the second benefit") and a decision to which this regulation applies is made the effect of which is that the first benefit ceases to be payable, or becomes payable at a lower rate than was in payment following the original decision, the consequent change in his entitlement to, or receipt of, the second benefit shall take effect from the date referred to in paragraph (2).

(4) In this regulation—

"the all work test" has the same meaning as in regulation 2(1) of the Incapacity for Work Regulations;

"the Incapacity for Work Regulations" means the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(**6**);

"the original decision" means a decision—

(**5**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1992 No. 453, S.R. 1995 No. 367 and S.R. 1996 No. 354
(**6**) S.R. 1995 No. 41; relevant amending regulations are S.R. 1995 No. 149, S.R. 1996 No. 601 and S.R. 1997 No. 174